

Board of Pharmacy
Initial Statement of Reasons

Subject Matter of Proposed Regulation: Citation and Fine Appeals

Sections Affected: Repeal Amend 1775.4

Specific Purpose of the Proposed Changes:

The Board of Pharmacy proposes to amend Section 1775.4 of Division 17 of Title 16 of the California Code of Regulations. The purpose for amending the regulation is to limit the number of times a person or entity can reschedule an informal office conference. Currently there is no provision to allow for a person or entity to reschedule the informal office conference once scheduled. This proposal would afford a person or entity the right to request that the informal office conference be rescheduled one time.

Factual Basis/Rationale

Business and Professions Code section 125.9 authorizes the board to establish by regulation, a system for issuing citations and fines up to \$5,000 for violations of the Pharmacy Law (Business and Professions Code section 4000 et seq.) and the regulations adopted pursuant thereto.

Business and Professions Code section 148 authorizes the board to establish by regulation, a system for issuing citations and fines for up to \$5,000 to persons who act in the capacity of a licensed person under the jurisdiction of the board without benefit of a license (i.e., unlicensed practice).

Business and Professions Code section 685 permits the board to issue a citation and fine to any currently licensed health care practitioner that defaults on specified student loans.

Business and Professions Code section 4067 authorizes the board to issue a citation with a fine of up to \$25,000 per violation for dispensing a dangerous drug or dangerous device over the internet when the person knew or reasonably should have known the prescription was not based on a good faith medical examination.

Business and Professions Code section 4127.4 authorizes the board to issue a citation with a fine of up to \$2,500 per occurrence for violations relating to the compounding of sterile injectable drug products.

Civil Code section 56.36 authorizes the board to issue citations and fines ranging from \$5,000 up to \$250,000 to its licensees for violation of the Confidentiality of Medical Information Act (Civil Code 56 et seq.).

Section 1774.5 of the California Code of Regulations allows a person or entity served with a citation to contest the citation. Such individuals can either request a hearing before an administrative law judge pursuant to the Administrative Procedures Act, request an informal office conference conducted by the board's executive officer or his or her designee, or both. This section details many of the procedures for the informal office conference, including necessary timeframes, but does not allow for an office conference to be rescheduled. This proposal would allow for a person or entity to reschedule the office conference one time.

Underlying Data

The board issued 774 citations in FY 2005/2006.

The board scheduled 177 informal office conferences during FY 2005/2006, 48 individuals requested to postpone the appeal conference and an additional seven persons or entities failed to appear at the scheduled office conference.

Business Impact

This regulation will not have a significant adverse economic impact on businesses.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to repealing the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the repeal of the regulation.